

UNITED STATES DISTRICT COURT SOUTHERN
DISTRICT OF NEW YORK

BSG RESOURCES (GUINEA) LIMITED, BSG
RESOURCES (GUINEA) SARL, and BSG
RESOURCES LIMITED,

Plaintiffs,

v.

GEORGE SOROS, OPEN SOCIETY
FOUNDATIONS, OPEN SOCIETY INSTITUTE,
FOUNDATION TO PROMOTE OPEN
SOCIETY, OPEN SOCIETY FOUNDATION,
INC., ALLIANCE FOR OPEN SOCIETY
INTERNATIONAL, INC., OPEN SOCIETY
POLICY CENTER, and OPEN SOCIETY FUND,

Defendants.

No. 1:17-cv-02726 (JFK) (AJP)

**PLAINTIFFS' OPPOSITION TO DEFENDANTS' APPLICATION FOR THE ISSUANCE
OF INTERNATIONAL JUDICIAL ASSISTANCE (LETTERS ROGATORY) TO THE
FEDERATIVE REPUBLIC OF BRAZIL RE VALE S.A.**

Plaintiffs submit this limited opposition to the version of the Vale letter of request submitted by Defendants. In particular, Plaintiffs object to the last two Requests to Vale as set forth in Exhibit B of the Application.

The parties are attempting to cooperate in the issuance of letters rogatory. Plaintiffs received on Friday Defendants' comments to two such letters that Plaintiffs will be presenting to the Court once the parties have concluded their discussion. On the Vale Application, Plaintiffs submitted to Defendants several edits to the original draft of the Application. Defendants accepted many of the edits, but rejected others, including the ones that are the subject of this opposition.

We note that the numbering of the Requests Defendants submitted to the Court is incorrect, as six requests (found between the Requests numbered 2 and 5) do not have numbers. The Requests that are the subject of this opposition are the twenty-second and twenty-third requests, currently erroneously numbered Requests 16 & 17.

Those requests seek all documents Vale produced or submitted in the LCIA Arbitration. Putting aside the confidentiality issues that may bar such production, Plaintiffs advised Defendants that those requests should be limited to documents/communications “relevant to the claims or defenses in this case”, as follows:

[16]. All Documents or Communications relevant to the claims or defenses in this case produced by Vale in the LCIA Arbitration.

[17]. All Documents relevant to the claims or defenses in this case submitted by Vale in the LCIA Arbitration, including, but not limited to briefs, witness statements, expert reports, and transcripts of testimony.

Defendants refused to add that limitation.

This Court limited Defendants’ request to Plaintiffs for Plaintiffs’ documents produced in the LCIA proceeding to “what you produced there that is otherwise relevant to their discovery” (9/1/17 Tr. at 32:19-21). Thus, adding a relevance qualifier to the requests to third-parties such as Vale is warranted.

Accordingly, Plaintiffs respectfully request that the Application be modified prior to issuance to add the underlined language set forth above. If not, Plaintiffs oppose the issuance of the letters rogatory.

Dated: November 1, 2017
New York, New York

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